

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 198

HOUSE BILL 2450

AN ACT

AMENDING SECTION 41-1027, ARIZONA REVISED STATUTES; RELATING TO RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1027, Arizona Revised Statutes, is amended to
3 read:

4 41-1027. Expedited rulemaking

5 A. An agency may conduct expedited ~~rule-making~~ RULEMAKING pursuant to
6 this section if the ~~rule-making~~ RULEMAKING does not increase the cost of
7 regulatory compliance, increase a fee or reduce procedural rights of persons
8 regulated and does one or more of the following:

9 1. Amends or repeals rules made obsolete by repeal or supersession of
10 an agency's statutory authority.

11 2. Amends or repeals rules for which the statute on which the rule is
12 authorized has been declared unconstitutional by a court with jurisdiction,
13 there is a final judgment and no statute has been enacted to replace the
14 unconstitutional statute.

15 3. Makes, amends or repeals rules that repeat verbatim existing
16 statutory authority granted to the agency.

17 4. Makes, amends or repeals rules relating only to internal
18 governmental operations that are not subject to violation by a person.

19 5. Corrects typographical errors, makes address or name changes or
20 clarifies language of a rule without changing its effect.

21 6. Adopts or incorporates by reference without material change federal
22 statutes or regulations pursuant to section 41-1028, statutes of this state
23 or rules of other agencies of this state.

24 7. Reduces or consolidates steps, procedures or processes in the
25 rules.

26 8. AMENDS OR REPEALS RULES THAT ARE OUTDATED, REDUNDANT OR OTHERWISE
27 NO LONGER NECESSARY FOR THE OPERATION OF STATE GOVERNMENT.

28 B. If the proposed expedited ~~rule-making~~ RULEMAKING is solely for a
29 purpose prescribed in subsection A, paragraph 1, 3, ~~or~~ 5 OR 8 of this
30 section, an agency shall notify the governor, the president of the senate,
31 the speaker of the house of representatives and the council of the proposed
32 expedited ~~rule-making~~ RULEMAKING. The notice shall contain the name, address
33 and telephone number of the agency contact person and the exact wording of
34 the proposed expedited ~~rule-making~~ RULEMAKING and indicate how the proposed
35 expedited ~~rule-making~~ RULEMAKING achieves the purpose prescribed in
36 subsection A, paragraph 1, 3, ~~or~~ 5 OR 8 of this section.

37 C. If the proposed expedited ~~rule-making~~ RULEMAKING is for a purpose
38 prescribed in subsection A, paragraph 2, 4, 6 or 7 of this section, an agency
39 shall file a request for proposed expedited ~~rule-making~~ RULEMAKING with the
40 governor and notify the president of the senate, the speaker of the house of
41 representatives and the council of the request. The request shall contain
42 the name, address and telephone number of the agency contact person and the
43 exact wording of the proposed expedited ~~rule-making~~ RULEMAKING and an
44 explanation of how the proposed expedited ~~rule-making~~ RULEMAKING meets the
45 criteria in subsection A of this section.

D. The governor may approve the request for expedited ~~rule-making~~ RULEMAKING if the request complies with subsection A of this section.

E. On delivery of the notice required in subsection B of this section or on approval by the governor of a request for proposed expedited ~~rule making~~ RULEMAKING the agency shall file a notice of the proposed expedited ~~rule-making~~ RULEMAKING with the secretary of state for publication in the next state administrative register containing the information and provisions of the proposed ~~rule-making~~ RULEMAKING filed with the governor pursuant to subsection B or C of this section and allow any person to provide written comment to the agency for at least thirty days after publication in the register, including objections to the ~~rule-making~~ RULEMAKING because it does not meet the criteria pursuant to subsection A of this section. The agency shall adequately respond in writing to the comments on the proposed expedited ~~rule-making~~ RULEMAKING.

F. An agency may not submit an expedited rule to the council that is substantially different from the proposed rule contained in the notice of proposed expedited ~~rule-making~~ RULEMAKING. However, an agency may terminate an expedited ~~rule-making~~ RULEMAKING proceeding pursuant to subsection K of this section and commence a new ~~rule-making~~ RULEMAKING proceeding for the purpose of making a substantially different rule. An agency shall use the criteria prescribed in section 41-1025, subsection B for determining whether an expedited rule is substantially different from the published proposed expedited rule.

G. After adequately addressing, in writing, any written objections, an agency shall file a request for approval with the council. The request shall contain the notice of proposed expedited ~~rule-making~~ RULEMAKING filed with the secretary of state pursuant to this section and the agency's responses to any written comments. The council may require a representative of an agency whose proposed expedited ~~rule-making~~ RULEMAKING is under examination to attend a council meeting and answer questions. The council may communicate to the agency its comments on the proposed expedited rule making within the scope of subsection A of this section and require the agency to respond to its comments or testimony in writing. A person may submit written comments to the council that are within the scope of subsection A of this section.

H. Before an agency files a notice of final expedited ~~rule-making~~ RULEMAKING with the secretary of state, the council shall approve any proposed expedited ~~rule-making~~ RULEMAKING. The council shall not approve the rule unless:

1. The rule satisfies the criteria for expedited ~~rule-making~~ RULEMAKING pursuant to subsection A of this section.

2. The rule is clear, concise and understandable.

3. The rule is not illegal, inconsistent with legislative intent or beyond the agency's statutory authority.

4. The agency, in writing, adequately addressed the comments on the proposed rule and any supplementary proposal.

1 5. If applicable, the permitting requirements comply with section
2 41-1037.

3 6. The rule is not a substantial change, considered as a whole, from
4 the proposed rule and any supplementary proposal.

5 7. The rule imposes the least burden and costs to persons regulated by
6 the rule.

7 I. On receipt of council approval, the agency shall file a notice of
8 final expedited ~~rule-making~~ RULEMAKING with the secretary of state that
9 contains the information and provisions required in subsection B or C of this
10 section and that the agency did receive approval from the council pursuant to
11 this section.

12 J. The expedited ~~rule-making~~ RULEMAKING becomes effective thirty days
13 following publication of the notice of final expedited ~~rule-making~~
14 RULEMAKING.

15 K. An agency may terminate an expedited ~~rule-making~~ RULEMAKING
16 proceeding on approval of the governor and written notice to the president of
17 the senate, the speaker of the house of representatives and the council.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.

Passed the House February 18, 2016

by the following vote: 36 Ayes,

21 Nays, 3 Not Voting

[Signature]
Speaker of the House

☒ Pro Tempore

[Signature]
Chief Clerk of the House

Passed the Senate May 5, 2016

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

10th day of May, 2016

at 10:21 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 11th day of

May

at 10:24 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 12 day of May, 2016

at 3:10 o'clock P M.

[Signature]
Secretary of State

H.B. 2450